

CLEARANCES	Initial	Date	Date Received in Council Office:	Agenda date	Assigned to:
Originator: Planning & Develop	<i>MK</i>	8/4/99	<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: auto;"> <p style="font-size: 1.5em; margin: 0;">R E C E I V E D</p> <p style="margin: 0;">AUG 06 1999</p> <p style="margin: 0;">WHATCOM COUNTY COUNCIL</p> </div>	8/10/99	P&D/Council
Division Head: Sylvia Goodwin	<i>[Signature]</i>				
Dept. Head: Michael Knapp	<i>MK</i>	8-6-99			
Prosecutor: David Grant	<i>DMG</i>	8-6-99			
Purchasing/Budget:					
Executive: Pete Kremen	<i>PK</i>	8-6-99			

SUBJECT: Ordinance imposing an emergency moratorium on applications for Conditional Use Permits for wireless communications facilities and declaring an emergency.

ATTACHMENTS:

- Draft Ordinance – imposing an emergency moratorium on wireless communications facilities and declaring an emergency**

SUMMARY STATEMENT: Please complete sections of box as appropriate & explain the item below.

Whatcom County Code (WCC) currently provides no special review or approval criteria for the placement of wireless communication towers and associated facilities. Presently the placement of communication facilities is authorized under WCC 20.82.030 - Public Utilities, Conditional Uses, which applies to all zoning districts, as well as being allowed outright in the Commercial Forest and Light Impact Industrial districts. A recent flood of applications and ongoing interest within the telecommunications industry to establish market share in emerging telecommunications technology supports the Planning and Development Services Department's concerns that the public is not presently benefiting from adequate protection from potential impacts of improperly sited cellular towers. In the first six months of 1999, Land Use Services has processed 40% (nearly half) of the telecommunication towers that have been processed in the past thirteen years. Telecommunication towers constitute over one out of every four Conditional Land Use permits processed by the County this year.

The imposition of a temporary moratorium is required to allow the Planning Division time to conduct research and develop an adequate zoning amendment to address the public concerns and defined impacts created by the placement and operation of telecommunication towers and their associated facilities.

Related County contract #: n/a	Should Clerk schedule a hearing? NO / X / YES / / Requested date:
Amount budgeted for this item/project: \$ n/a	Is it (or will it be) within budget? YES / / NO / / (Please explain below) n/a
Budget line item number(s): n/a	

ORIGINATOR'S RECOMMENDED ACTION:

The Director of Department of Planning and Development Services recommends adoption of ord 99 - ___ adopting a temporary moratorium and authorizing the development of specific language to address the siting of telecommunication towers.

COMMITTEE ACTION TAKEN. 1999 - 317 8/10/99: Substitute ordinance amended and adopted 5-1, Imhof opposed, Brown absent, Ord. #99-041

COUNCIL ACTION TAKEN:

Related File Numbers:

Ordinance or Resolution Number (this item only):

ORD. #99-041

1
2 SPONSORED BY: Connie Hoag/Barbara Brenner
3 PROPOSED BY: Michael Knapp/Kraig Olason
4 INTRODUCTION DATE: 8/10/99
5

6 **ORDINANCE #** 99-041
7

8
9
10 **AN ORDINANCE WHATCOM COUNTY, WASHINGTON, IMPOSING A**
11 **MORATORIUM ON APPLICATIONS FOR LAND USE PERMITS FOR WIRELESS**
12 **COMMUNICATIONS FACILITIES; AND DECLARING AN EMERGENCY.**
13

14
15 **WHEREAS**, the increasing use of cellular telephones, new wireless communications and
16 increased federal licensing of communication channels has created a significant increase in the
17 number of applications for land use permits for the siting of cellular towers, cell sites and
18 antennae, and other facilities necessary for wireless services communication facilities including
19 facilities for the transmission and reception of radio or microwave signals used for said
20 communication (hereafter, "wireless communications facilities") that is expected to continue
21 indefinitely; and
22

23 **WHEREAS**, the land use regulations currently in effect in the County do not provide
24 sufficient definitive criteria with which the County can address the concerns of County residents
25 and properly evaluate and condition the siting of wireless communications facilities; and
26

27 **WHEREAS**, 33 Conditional Use Permits were issued for wireless communication facilities
28 since 1986, a period of thirteen years, and 13 applications or 40% of the total number
29 processed since 1986 have been received within the first 7 months of 1999 and wireless
30 communications applications currently account for 25% of Conditional Use Applications for
31 1999; and
32

33 **WHEREAS**, Whatcom County is in the process of developing amendments to Title 20 which
34 will include criteria to regulate these facilities, in response to increasing concern about the
35 proliferation of wireless communications facilities; and
36

37 **WHEREAS**, The Department of Planning and Development Services shall continue
38 preparation of land use regulations governing placement of wireless communication facilities
39 within the County and shall submit them for consideration by the Planning Commission and
40 County Council; and
41

42 **WHEREAS**, Washington State's permissive vested rights doctrine, which allows many land
43 use applications to vest to land use regulations which are in effect early in the application
44 process, could enable applications for wireless communications facilities to vest in inadequate
45 regulations while the County studies the changes needed in those regulations, undermining
46 effective County planning for these facilities; and
47

1 **WHEREAS**, a moratorium on further filing and processing of applications is necessary while
2 the County studies the issues inherent in the construction and siting of wireless communications
3 facilities and develops appropriate land use controls for the emerging technology; and
4

5 **WHEREAS**, RCW 36.70.795 authorizes the County to adopt a moratorium on development
6 and to hold a public hearing on the moratorium within 60 days of the commencement of the
7 moratorium, and
8

9 **WHEREAS**, the County Council finds that the moratorium imposed by this ordinance is
10 necessary for the protection of the public health, safety, property or peace;
11

12 **NOW THEREFORE, THE WHATCOM COUNTY COUNCIL, WASHINGTON, DO**
13 **ORDAIN AS FOLLOWS:**
14

15 **Section 1.**

16 A. A moratorium is imposed on filing and processing of applications for land use permits
17 for wireless communications facilities in residential zoning and within 1,000 feet of any
18 residence in all other zoning unless the applications were complete, as provided in
19 Whatcom County Code, prior to the effective date of this ordinance.

20 B. As used in this ordinance "Land use permit" means any permit required from the
21 County for the construction or siting of any facilities necessary for wireless
22 communications facilities; provided that "land use permit" shall not include any permit
23 for the construction or attachment of any such facilities on existing wireless
24 communications facilities or on such facilities constructed pursuant to a completed
25 application under subsection A above.
26

27 **Section 2.** Pursuant to Whatcom County Ordinance Code 16.08.065 and Washington
28 Administrative Code WAC 197-11-880, the Whatcom County Council finds that an
29 exemption under SEPA for this action is necessary to prevent an imminent threat to public
30 health and safety and to prevent an imminent threat of serious environmental degradation
31 through continued development under existing regulations. SEPA review of any
32 permanent regulations proposed for replacement of the existing zoning shall be
33 conducted.
34

35 **BE IT FURTHER ORDAINED AS FOLLOWS:**
36

37 The Whatcom County Council finds as a fact and declares that a public emergency exists
38 and that this ordinance is necessary for the protection of the public health, public safety, public
39 property, or the public peace and shall take effect immediately and shall expire on the 61st day
40 following the date on which this ordinance becomes law.

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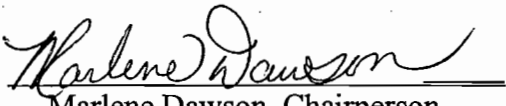
ADOPTED this 10th day of August, 1999

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:



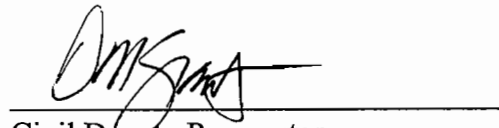
Dana Brown-Davis, Council Clerk



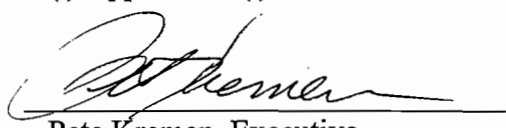
Marlene Dawson, Chairperson

APPROVED as to form:

Approved Denied



Civil Deputy Prosecutor



Pete Kremen, Executive

Date: 8-11-99